

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
EUREKA DIVISION

MICHAEL THOMPSON,  
Plaintiff,

v.

RONALD J. HARRIS, et al.,  
Defendants.

Case No. 12-cv-06529 NJV

**ORDER DISCHARGING ORDER TO  
SHOW CAUSE, STAYING RULING,  
AND SETTING FURTHER SCHEDULE**

This action seeking declaratory relief, injunctive relief and money damages was filed on December 26, 2012. (Doc. 1.) Plaintiff asserts that this court has federal question subject matter jurisdiction over the action pursuant to 28 U.S.C. § 1331. Plaintiff relies on 42 U.S.C. § 2000a-3, which provides for civil actions for injunctive relief based on acts prohibited by 42 U.S.C. § 2000a-2. Plaintiff asserts five claims for relief in this action: (1) a claim under 42 U.S.C. § 2000a-2 for violation of 42 U.S.C. § 2000a; (2) a violation of California Civil Code § 51.5(a); (3) intentional infliction of emotional distress; (4) negligent infliction of emotional distress; and (5) declaratory relief.

The court held a case management conference on April 2, 2013, setting trial for February 24, 2014. (Docs. 11, 12.) On January 17, 2014, the court entered an order giving Plaintiff 14 days to show cause why this case should not be dismissed for failure to state a claim upon which relief can be granted or for lack of federal subject matter jurisdiction. (Doc. 43.) The court gave Defendants 7 days to file a response. *Id.* The court further vacated the pretrial conference and the trial. *Id.* The matter was heard before the court on February 18, 2014. (Doc. 46.)

The order to show cause is DISCHARGED. The court's ruling regarding federal subject

1 matter jurisdiction is STAYED to allow Plaintiff to file a motion for leave to file an amended  
2 complaint, as explained below.

3 Further Amendment

4 In his response to the Order to Show Cause, Plaintiff seeks leave to amend his complaint to  
5 plead an additional federal claim for relief. Plaintiff seeks to add a claim under 42 U.S.C. §1982,  
6 which provides, "[a]ll citizens of the United States shall have the same right, in every State and  
7 Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey  
8 real and personal property." *See Jones v. Alfred H. Mayer Co.*, 392 U.S. 409 (1968) (holding that  
9 statute bars all racial discrimination, private as well as public, in sale or rental of property).

10 Plaintiff, however, has not actually filed a motion to amend, nor provided a proposed first  
11 amended complaint. The court notes that a showing of good cause is required in circumstances  
12 such as this where the deadline for amending pleadings set forth in the Case Management Order  
13 has passed. Fed.R.Civ.P. 16(b)(4). Accordingly, the court will not rule on Plaintiff's request at  
14 this time, but will grant Plaintiff until March 4, 2014, to file a motion to amend, accompanied by a  
15 proposed first amended complaint.

16 In an effort to expedite this litigation and as agreed to by the parties at the hearing,  
17 Defendants shall file their motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)  
18 and/or Rule 16(b)(4) no later than March 18, 2014. Plaintiff's response is due no later than March  
19 25, 2014. The matter shall be heard on April 1, 2014, at 1:00 p.m. with both counsel present for  
20 the hearing.

21 IT IS SO ORDERED.

22  
23 DATED: February 24, 2014

24   
Nandor J. Vadas  
United States Magistrate Judge